

Introduced by Senator Torlakson

February 21, 2003

An act to amend ~~Section~~ *Sections 210 and 40518* of, to add Sections 12810.3, 40518.5, and 40520.5 to, and to repeal and add Section 21455.5 of, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 780, as amended, Torlakson. Vehicles: violations: automated enforcement systems.

Existing

(1) *Existing law defines an “automated enforcement system” as any system operated by a governmental agency, in cooperation with a law enforcement agency, that photographically records a driver’s responses to a rail or rail transit signal or crossing gate, or both, or to an official traffic control signal, as specified, and is designed to obtain a clear photograph of a vehicle’s license plate and the driver of the vehicle.*

This bill would revise that definition to delete the requirement that the system be designed to obtain a clear photograph of the driver of the vehicle.

(2) *Existing law authorizes the limit line, intersection, or other places where a driver is required to stop to be equipped with an automated enforcement system, as defined, if the system meets certain requirements, and provides a procedure for criminal adjudication of alleged violations recorded by that system.*

This bill, instead, would require those violations to be cited as civil violations, subject to a civil penalty of not more than \$200 and a

specified administrative adjudication process. The bill would exempt those violations from a specified traffic violation point count process.

The bill would make conforming changes to existing law.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 210 of the Vehicle Code is amended to*
2 *read:*

3 210. An “automated enforcement system” is any system
4 operated by a governmental agency, in cooperation with a law
5 enforcement agency, that photographically records a driver’s
6 responses to a rail or rail transit signal or crossing gate, or both, or
7 to an official traffic control signal described in Section 21450, and
8 is designed to obtain a clear photograph of a vehicle’s license plate
9 ~~and the driver of the vehicle.~~

10 SEC. 2. Section 12810.3 is added to the Vehicle Code, to read:

11 12810.3. No violation point count may be given for a
12 violation of Section 21453, 21455, or 22101 that is cited as a civil
13 violation under ~~subdivision (g)~~ of Section 21455.5.

14 ~~SEC. 2.—~~

15 SEC. 3. Section 21455.5 of the Vehicle Code is repealed.

16 ~~SEC. 3.—~~

17 SEC. 4. Section 21455.5 is added to the Vehicle Code, to read:

18 21455.5. (a) The limit line, intersection, or crosswalk
19 described in Section 21453 or 22101, or the places described in
20 Section 21455, where a stop is required, may be equipped with an
21 automated enforcement system to record violations of Section
22 21453, 21455, or 22101, if the governmental agency utilizing the
23 system complies with either of the following:

24 (1) The system is identified by signs located not less than 200
25 feet from the limit line, intersection, crosswalk, or other place
26 where a stop is required, clearly indicating that the system is being
27 utilized.

28 (2) Signs are posted at all major entrances to the city, including,
29 at a minimum, all entrances from freeways, bridges, and state
30 highway routes, clearly indicating that an automated enforcement
31 system is being utilized within the city.

1 (b) (1) Only a governmental agency, in cooperation with a law
2 enforcement agency, may operate an automated enforcement
3 system under this section. However, the governmental agency may
4 contract out the day-to-day operation of the system to a private
5 entity.

6 (2) The governmental agency shall be responsible for
7 determining the location where the system will be used, and for the
8 proper supervision and maintenance of the program, but may
9 consult with a private entity on these issues.

10 (c) Prior to issuing the first citation for a violation recorded by
11 the automated enforcement system, the governmental agency shall
12 do both of the following:

13 (1) Issue warning notices instead of citations for any violations
14 recorded during the first 30 days after the first recording unit is
15 installed.

16 (2) Not less than 30 days prior to the commencement of the
17 automated enforcement program, make a public announcement
18 that the system will be utilized.

19 (d) A governmental agency that has established an automated
20 enforcement system under this section shall compensate any
21 involved manufacturer or vendor based solely upon the value of
22 the equipment and services provided or rendered in support of the
23 system. Compensation may not be based upon a portion of the civil
24 penalty imposed or the revenue generated by the equipment.

25 (e) The automated enforcement system shall be designed to
26 record an image of the violating vehicle and license plate thereon
27 during the commission of the violation.

28 (f) Notwithstanding Section 6253 of the Government Code, or
29 any other provision of law, photographic records made by the
30 automated enforcement system shall be confidential, and shall be
31 made available only to the following:

32 (1) Governmental agencies and law enforcement agencies, for
33 the purpose of this article.

34 (2) The registered owner or any individual identified by the
35 registered owner as the driver of the vehicle at the time of the
36 alleged violation.

37 (g) *Any confidential information obtained from the*
38 *Department of Motor Vehicles for the administration or*
39 *enforcement of this article shall be held confidential and may not*

1 *be used for any purpose other than administration or enforcement*
2 *of this article.*

3 (h) A violation recorded by the automated enforcement system
4 shall be cited as a civil violation, subject to a civil penalty of not
5 more than two hundred dollars (\$200).

6 ~~(h)–~~

7 (i) A violation recorded by the automated enforcement system
8 shall be subject to the administrative adjudication process set forth
9 in Sections 40518.5 and 40520.5. The violation shall be the
10 responsibility of the registered owner of the vehicle recorded by
11 the system.

12 ~~(i)–~~

13 (j) This section does not apply to ~~a~~ *either of the following:*

14 (1) A notice to appear issued by a law enforcement officer for
15 a violation of Section 21453, 21455, or 22101 that was witnessed
16 by the ~~officer, or to a officer.~~

17 (2) A notice to appear ~~issued by a law enforcement officer as a~~
18 ~~result of a traffic accident caused by a violation of those~~
19 ~~provisions.~~

20 ~~SEC. 4.—~~*issued by a law enforcement officer under Section*
21 *40600 as a result of a traffic collision in which a violation of*
22 *Section 21453, 21455, or 22101 is a contributing factor to the*
23 *collision, if the violation is recorded by an automated traffic*
24 *enforcement system.*

25 (k) The department shall issue citations under this section for
26 violations that occur on a highway over which the department has
27 primary jurisdiction. Pursuant to this requirement, the department
28 may enter into agreements for both of the following:

29 (1) To provide for reimbursement to the department by the
30 governmental agency utilizing the automated enforcement system,
31 for services rendered by the department under this subdivision.

32 (2) To provide for reimbursement to the department by the
33 appropriate governmental agency utilizing the automated
34 enforcement system in a regional or multiagency automated
35 enforcement system program, for services rendered by the
36 department under this subdivision.

37 SEC. 5. Section 40518 of the Vehicle Code is amended to
38 read:

39 40518. (a) Whenever a written notice to appear has been
40 issued by a peace officer or by a qualified employee of a law

1 enforcement agency on a form approved by the Judicial Council
2 for an alleged violation of Section 22451 recorded by an
3 automated enforcement system pursuant to Section 22451, and
4 delivered by mail within 15 days of the alleged violation to the
5 current address of the registered owner of the vehicle on file with
6 the department, with a certificate of mailing obtained as evidence
7 of service, an exact and legible duplicate copy of the notice when
8 filed with the magistrate shall constitute a complaint to which the
9 defendant may enter a plea. Preparation and delivery of a notice
10 to appear pursuant to this section is not an arrest.

11 (b) A notice to appear shall contain the name and address of the
12 person, the license plate number of the person's vehicle, the
13 violation charged, including a description of the offense, and the
14 time and place when, and where, the person may appear in court
15 or before a person authorized to receive a deposit of bail. The time
16 specified shall be at least 10 days after the notice to appear is
17 delivered.

18 SEC. 5. Section 40518.5 is added to the Vehicle Code, to read:

19 40518.5. (a) For a period of 21 calendar days from the
20 issuance of a notice of a violation of Section 21453, 21455, or
21 22101 that was recorded by an automated enforcement system
22 authorized under Section 21455.5, or 14 calendar days from the
23 mailing of a notice of delinquent violation, a person may request
24 an initial review of the notice by the issuing agency. The request
25 may be made by telephone, in writing, or in person. There shall be
26 no charge for this review. If, following the initial review, the
27 issuing agency is satisfied that the violation did not occur, that the
28 registered owner was not responsible for the violation, or that
29 extenuating circumstances make dismissal of the citation
30 appropriate in the interest of justice, the issuing agency shall
31 cancel the notice of violation or notice of delinquent violation. The
32 issuing agency shall advise the processing agency, if any, of the
33 cancellation. The issuing agency or the processing agency shall
34 mail the results of the initial review to the person contesting the
35 notice.

36 (b) If the person is dissatisfied with the results of the initial
37 review, the person may request an administrative hearing of the
38 violation no later than 21 calendar days following the mailing of
39 the results of the issuing agency's initial review. The request may
40 be made by telephone, in writing, or in person. The person

1 requesting an administrative hearing shall deposit the amount of
2 the penalty with the processing agency. The issuing agency shall
3 provide a written procedure to allow a person to request an
4 administrative hearing without payment of the penalty upon
5 satisfactory proof of an inability to pay the amount due. Notice of
6 this procedure shall be provided to all persons requesting an
7 administrative hearing. The administrative hearing shall be held
8 within 90 calendar days following the receipt of a request for an
9 administrative hearing. The person requesting the hearing may
10 request one continuance, not to exceed 21 calendar days.

11 (c) The administrative hearing process shall include the
12 following:

13 (1) The person requesting a hearing shall have the choice of a
14 hearing by mail or in person. An in-person hearing shall be
15 conducted within the jurisdiction of the issuing agency. If an
16 issuing agency contracts with an administrative provider, hearings
17 shall be held within the jurisdiction of the issuing agency or no
18 more than 21 miles outside the county.

19 (2) If the person requesting a hearing is a minor, that person
20 shall be permitted to appear at a hearing or admit responsibility for
21 the violation without the necessity of the appointment of a
22 guardian. The processing agency may proceed against the minor
23 in the same manner as against an adult.

24 (3) The administrative hearing shall be conducted in
25 accordance with written procedures established by the issuing
26 agency and approved by the governing body or chief executive
27 officer of the issuing agency. The hearing shall provide an
28 independent, objective, fair, and impartial review of contested
29 violations.

30 (4) (A) The issuing agency's governing body or chief
31 executive officer shall appoint or contract with qualified
32 examiners or administrative hearing providers that employ
33 qualified examiners to conduct the administrative hearings.
34 Examiners shall demonstrate those qualifications, training, and
35 objectivity necessary to conduct a fair and impartial review. The
36 examiner shall be separate and independent from the citation
37 collection or processing function. An examiner's continued
38 employment, performance evaluation, compensation, and benefits
39 may not, directly or indirectly, be linked to the amount of fines
40 collected by the examiner.

1 (B) Examiners shall have a minimum of 20 hours of training.
 2 The examiner is responsible for the costs of the training. The
 3 issuing agency may reimburse the examiner for those costs.
 4 Training may be provided through (i) an accredited college or
 5 university, (ii) a program conducted by the Commission on Peace
 6 Officer Standards and Training, (iii) American Arbitration
 7 Association or a similar established organization, or (iv) through
 8 any program approved by the governing board of the issuing
 9 agency, including a program developed and provided by, or for, the
 10 agency. Training programs may include topics relevant to the
 11 administrative hearing, including, but not limited to, applicable
 12 laws and regulations, enforcement procedures, due process,
 13 evaluation of evidence, hearing procedures, and effective oral and
 14 written communication. Upon the approval of the governing board
 15 of the issuing agency, up to 12 hours of relevant experience may
 16 be substituted for up to 12 hours of training. In addition, up to eight
 17 hours of the training requirements described in this subparagraph
 18 may be credited to an individual, at the discretion of the governing
 19 board of the issuing agency, based upon training programs or
 20 courses described in (i) to (iv), inclusive, that the individual
 21 attended within the last five years.

22 (5) The officer or person who issues a notice of violation may
 23 not be required to participate in an administrative hearing. The
 24 issuing agency may not be required to produce any evidence other
 25 than the notice of violation or copy thereof and information
 26 received from the Department of Motor Vehicles identifying the
 27 registered owner of the vehicle. The documentation in proper form
 28 shall be prima facie evidence of the violation.

29 (6) The examiner's decision following the administrative
 30 hearing may be personally delivered to the person by the examiner
 31 or sent by first-class mail.

32 (7) Following a determination by the examiner that a person
 33 has committed the violation, the examiner may, consistent with the
 34 written guidelines established by the issuing agency, allow
 35 payment of the penalty in installments, or an issuing agency may
 36 allow for deferred payment or allow for payments in installments,
 37 if the person provides evidence satisfactory to the examiner or the
 38 issuing agency, as the case may be, of an inability to pay the penalty
 39 in full. If authorized by the governing board of the issuing agency,

1 the examiner may permit the performance of community service
2 in lieu of payment of a penalty.

3 (d) The provisions of this section relating to the administrative
4 appeal process do not apply to an issuing agency that is a law
5 enforcement agency if the issuing agency does not also act as the
6 processing agency.

7 ~~SEC. 6.—~~

8 *SEC. 7.* Section 40520.5 is added to the Vehicle Code, to read:

9 40520.5. (a) Within 30 calendar days after the mailing or
10 personal delivery of the final decision described in subdivision (b)
11 of Section 40518.5, the contestant may seek review by filing an
12 appeal to be heard by the municipal court, or by the superior court
13 in a county in which there is no municipal court, where the same
14 shall be heard de novo, except that the contents of the processing
15 agency's file in the case shall be received in evidence. A copy of
16 the notice of violation or, if the citation was issued electronically,
17 a true and correct abstract containing the information set forth in
18 the notice of violation shall be admitted into evidence as prima
19 facie evidence of the facts stated therein. A copy of the notice of
20 appeal shall be served in person or by first-class mail upon the
21 processing agency by the contestant. For purposes of computing
22 the 30-calendar-day period, Section 1013 of the Code of Civil
23 Procedure shall be applicable. A proceeding under this subdivision
24 is a limited civil case.

25 (b) (1) The fee for filing the notice of appeal is twenty-five
26 dollars (\$25). The court shall request that the processing agency's
27 file on the case be forwarded to the court, to be received within 15
28 calendar days of the request.

29 (2) The court shall notify the contestant of the appearance date
30 by mail or personal delivery. The court shall retain the twenty-five
31 dollar (\$25) fee regardless of the outcome of the appeal. If the
32 court finds in favor of the contestant, the amount of the fee shall
33 be reimbursed to the contestant by the processing agency. Any
34 deposit of penalty shall be refunded by the processing agency in
35 accordance with the judgment of the court.

36 (c) The conduct of the appeal under this section is a subordinate
37 judicial duty that may be performed by traffic trial commissioners
38 and other subordinate judicial officials at the direction of the
39 presiding judge of the court.

1 (d) If no notice of appeal of the processing agency's decision
2 is filed within the period set forth in subdivision (a), the decision
3 shall be deemed final.

4 (e) If the penalty has not been deposited and the decision is
5 against the contestant, the processing agency shall proceed to
6 collect the penalty after the decision becomes final.

